

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
AMERICAN UNDERWRITING	:	CASE NO. 18-58406-SMS
SERVICES, LLC,	:	
	:	
Debtor.	:	

APPLICATION BY TRUSTEE FOR COMPENSATION

TO: THE HONORABLE SAGE M. SIGLER
UNITED STATES BANKRUPTCY JUDGE

This Application of S. Gregory Hays, brought pursuant to Section 330 of the United States Bankruptcy Code, respectfully shows that he is the duly-appointed and qualified Trustee in Bankruptcy of the above-captioned Estate, that the assets of said Debtor have been liquidated, and that there came into the hands of the undersigned Trustee for disbursement the total sum of \$883,240.25 of which \$46,369.90 was received in error and returned to the payee and the Trustee anticipates an additional \$0.00 will be distributed to the Debtor.

In the administration of said Estate, your Applicant has performed those services required by a Trustee. This Application is for services rendered from July 27 2018 through August 13, 2021. The statutory allowance is the sum of \$42,206.43, and Applicant has heretofore received on his account compensation as Trustee in the sum of \$0.00. Attached as Exhibit "A" is a calculation of the Trustee commission, which factors in the trustee commission earned during the Chapter 11 case.

Your Applicant has not in any form or guise agreed to share the compensation for such services with any person not contributing thereto, or to share in the compensation of any person

rendering services in this proceeding to which services Applicant has not contributed. Your Applicant has not entered into any agreement, written or oral, express or implied, with any other party in interest or any attorney of any other party in interest in this proceeding for the purpose of fixing the amount of the fees or other compensation to be paid to any party in interest, or any attorney of any party in interest herein for services rendered in connection therewith.

On May 18, 2018 (the “**Petition Date**”), American Underwriting Services, LLC (“**Debtor**”) filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, modified, or supplemented, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division, initiating Chapter 11 Case No. 18-58406-sms (the “**Case**”). Shortly thereafter, Trustee was appointed, and he remains, the duly acting Chapter 7 trustee in this Case.

Prior to the Petition Date and during the Chapter 11 Case, the Debtor provided liability insurance products—as a program underwriter based in Atlanta, Georgia—for the trucking and transportation industry, including with regard to commercial auto liability, motor truck cargo, auto physical damage, property, and general liability products. The operations of the Debtor included at one time trucking specialists in 48 states.

On June 27, 2018, the United States Trustee filed a Notice of Appointment of Chapter 11 Trustee and Setting of Bond [Doc. No. 70] pursuant to which S. Gregory Hays was appointed as the Chapter 11 Trustee for the bankruptcy estate of the Debtor. After the United States Trustee filed an Application for Approval of Selection of Appointment of Chapter 11 Trustee [Doc. No. 73] on June 28, 2018, the Court entered an Order Approving Appointment of Chapter 11 Trustee [Doc. No. 77] on June 29, 2018, confirming the appointment of S. Gregory Hays as the Chapter

11 trustee in the Case.

On August 1, 2018, the Court converted the Case to a proceeding under Chapter 7 effective July 27, 2019 [Doc. No. 106] and directed the United States Trustee to appoint a trustee in the Chapter 7 Case. Shortly thereafter, Trustee was appointed, and he remains, the duly acting Chapter 7 trustee in this Bankruptcy Case.

At the commencement of the Bankruptcy Case, a bankruptcy estate was created pursuant to 11 U.S.C. § 541(a) (the “**Bankruptcy Estate**”), and that Bankruptcy Estate includes all Debtor’s legal or equitable interests in property as of the commencement of the Bankruptcy Case and any interest in property that the estate acquires after commencement of the Bankruptcy Case. 11 U.S.C. § 541(a)(1) and (7) (2015). Trustee is the sole representative of the Bankruptcy Estate. 11 U.S.C. § 323(a) (2015).

This Application seeks payment of the Chapter 7 Trustee commission and reimbursement of expenses as Chapter 7 Trustee. In summary the Trustee performed or supervised activities involving the following:

Since the appointment of the Chapter 11 Trustee, the Chapter 11 Trustee conducted an investigation of the business affairs of the Debtor to determine whether a reorganization was possible or feasible. Based on that investigation, the Trustee determined that, among other potential problems, the operations of the Debtor were not generating a profit, continue to suffer losses, and were insufficient to pay ongoing Chapter 11 administrative expenses, including attorney’s fees and U.S. Trustee fees. Furthermore, the Trustee was not aware of any potential party willing to finance the operations of the Debtor pending a sale of the assets of the Debtor or through confirmation of any plan of reorganization nor were there any ready, willing or able buyers

prepared to purchase the Debtor's business as a going concern. In the business judgment of the Trustee, the ongoing losses of the Debtor and inability of the Debtor to obtain adequate financing for the operations of the Debtor made reorganization highly unlikely, if not impossible and the Chapter 11 trustee file a motion to convert the case. On August 1, 2018, the Court converted the Case to a proceeding under Chapter 7 effective July 27, 2019.

During the Chapter 7 period, the Trustee finalized the closing of the Debtor's office, wound down operations, completed the final payroll, terminated benefit plans, preserved the Debtor's electronic data and completed the reconciliation of all Chapter 11 insurance policy payments and credits. In addition, the Trustee assisted the various carriers with the transmission to other managed general agents.

After extensive reconciliation, the Trustee filed his Motion for Authority to Pay Insurance Premiums and to Return Funds Erroneously Paid to the Trustee [Doc. No. 154] and turned over nearly \$500,000 to various carriers for premiums collected post petition after retaining approximately \$32,000 in commissions.

The Trustee filed adversary # 18-05106 against Prosight Specialty Management Company and New York Marine and General Insurance Company relating to seven pre-petition garnishments actions. Following good faith and arms-length negotiations, the Trustee and Prosight where by the Trustee recovered \$225,507.99 for the Bankruptcy Estate. In addition, the Trustee resolved a transfer to Gillen, Withers & Lake, LLC for \$10,000.

The Chapter 7 Trustee is currently holding \$355,490.16 in the bankruptcy estate's bank account. In his final report, the Trustee is proposing paying Chapter 7 and Chapter 11 administrative claims in full. In addition, the Trustee is proposing paying two priority tax claims

in full and a small distribution to general unsecured claims. This is the best result possible considering the financial condition of the Debtor at the time of the Chapter 11 Trustee's appointment.

All appropriated claim objections have been filed and or resolved and all necessary tax return and matters have been resolved.

As said Trustee, your Applicant has or will pay in the final administration of the case out of his own funds expenses totaling \$1,114.56, none of which have been repaid and for which he prays for reimbursement. Attached hereto marked as Exhibit "B" and incorporated herein by reference is an itemization of Trustee's expenses.

WHEREFORE, S. Gregory Hays prays for such allowance for his services herein in the amount of \$42,206.43 plus reimbursement of expenses in the amount of \$1,114.56 and as the Court finds reasonable and just.

Respectfully submitted this 16th day of August, 2021.

Hays Financial Consulting, LLC
2964 Peachtree Rd, N.W, Ste 555
Atlanta, Georgia 30305
404) 926-0060

/s

S. Gregory Hays
Chapter 7 Trustee

Exhibit A

Trustee's Compensation

Computation of Compensation

Chapter 11 Trustee Disbursements (6/27/18 - 7/26/18)	\$ 42,741.69
Chapter 7 Disbursements July 27, 2018 through Current	\$ 527,179.42
Trustee's Proposed Final Disbursements	\$ 356,060.83
Less: Funds paid to Debtor in Error & Returned to Payee	\$ (46,369.90)
Total disbursements to other than the debtor are:	<u>\$ 879,612.04</u>

Pursuant to 11 U.S.C. 326, compensation is computed as follows:

25% of First \$5,000	\$ 1,250.00
10% of Next \$45,000	\$ 4,500.00
5% of Next \$950,000	\$ 41,480.60
3% of Balance	\$ -
	<u>\$ 47,230.60</u>

Maximum Allowable Trustee Compensation **\$ 47,230.60**

Less: Commission Requested for Chapter 11 Period **\$ 5,024.17**

Amount Requested this Application \$ 42,206.43

Exhibit B

Hays Financial Consulting, LLC

2964 Peachtree Road
Suite 555
Atlanta, GA 30305-2153

American Underwriting Services, LLC
Case # 18-58406-SMS

For the Period from 7/27/2018 to 8/16/2021

August 16, 2021

	<u>Amount</u>
7/27/2018 Mileage expense round trip to court and then AUS offices.	41.58
1/4/2019 2019 Bond fee	17.10
1/9/2020 2020 Bond fee	125.64
1/12/2021 2021 Bond fee	144.06
8/13/2021 Case Closing Expenses:	786.18
Copies NFR - 415 notices @ 9 pages @ \$0.15 per copy - \$560.25	
Postage NFR - 415 notices @ \$0.51 per notice - \$211.65	
Postage distribution checks - 28 checks @ \$0.51 per check - \$14.28	
Total costs	<u>\$1,114.56</u>